I value morality. Normativity arises only within a conception of formal principles a la the categorical imperative because those are the principles that guide every agent who intentionally acts. Reath[[1]](#footnote-1):

To see what this approach to the formula of humanity involves, let me explain what I think formal principles are for Kant. Kant tends to regard the fundamental principles in some domain of cognition or rational activity as formal principles. This is quite clear in his moral philosophy, where he is explicit that the fundamental principle of morality must be a formal principle and that only a formal principle – a principle that determines the will through its form rather than its matter and that prescribes the formal condition of universal law – has the necessity of a practical law. The connection between form and normative necessity is explained if we understand a formal principle [is] as the internal constitutive principle of a domain of cognition or rational activity. It is the principle that defines or describes and makes it possible to engage in that activity, thus the principle that any subject engaged in that activity must follow. So understood, the formal principle of a domain of cognitive activity is uniquely suited to govern[s] it with normative necessity because it is not coherently rejected by anyone engaged in that activity.

The formal principle of making any judgments, including moral judgments, is that our judgments seek to be one with other judgments—hence, not contradictory. Reath 2:

A formal principle of a domain of cognition grows out of and expresses the self-understanding of that activity. It would appear that any kind of rational activity understands itself as having [has] certain features that make it what it is – indeed that it is a formal feature of rational activities that they understand themselves to have a certain form – and that all genuine instances of the activity are normatively guided by this self-understanding. (Rational activity is self-conscious and is guided by its awareness of what it is.) The spontaneity of cognition or rational activity, in part, is that it is normatively guided by this self-understanding (of its own form). In order to make this idea a bit less abstract, let me illustrate with an example taken from Stephen Engstrom (much simplified). Engstrom suggests that it is the mark of judgment that it is ‘self-consciously self-sustaining’. The self-sustaining component is that a judgment understands itself to make an objectively valid claim that excludes incompatible claims and that agrees with all other judgments and is confirmed by this agreement. Judgment is self-consciously self-sustaining because it sustains itself through its understanding that it is making an objectively valid claim. Among other things, it means that judgment self-consciously seeks agreement with all other judgments as its formal aim, both what Engstrom calls ‘subjective agreement’ and ‘objective agreement’. ‘Subjective agreement’ is that all judging subjects are to agree with or hold a valid judgment, and ‘objective agreement’ is that judgments with different content are to agree with and support each other. Thus the formal feature of judgment is that it understands itself, and so constitutively aims, to fit together with all other judgments in a single (mutually supporting) body of knowledge that holds for all judging subjects, and moreover that it sustains itself through its consciousness that it does fit together with all other judgments in this way. In the case of theoretical judgments of the understanding, since the categories and principles of the understanding are conditions of agreement or unity in a single objective self-consciousness, they serve as the internal norms of judgment. The structure here is that a judgment – in this case a theoretical judgment – understands itself to be making an objectively [a] valid claim that stands with all other judgments in one body of knowledge. This is a necessary feature of judgment, in that a mental state that does not understand itself in this way is not a judgment. Further, this self-understanding leads to a set of internal principles that govern exercises of judgment in two respects. First, these internal principles describe and constitutively guide the operation of theoretical judgment and, because they are part of its self-understanding, tacitly guide all instances, even false judgments. One judges about items given in intuition (brings them to the objective unity of self-consciousness by bringing them under the categories and principles of the understanding. Second, these internal principles function as regulative norms that, again because they are based in the self-understanding of judgment, set authoritative standards of success and failure. A judgment that does not meet the condition of agreement with all other judgments must be withdrawn

Thus, my standard is *rejecting non-universizable maxims*. The categorical imperative tests general maxims for universality and yields “deliberate presumptions” against certain act types. The burden of proof is on the agent who claims that his act is not governed by the presumption to rebut it. Herman[[2]](#footnote-2) clarifies:

There is a different way of thinking about the CI procedure that takes advantage of its success with very general maxims. We might think of the formal CI procedure (the two tests) as [is] designed to assess the most general form of a given kind of maxim (“generic maxims,” if you will), not to show that there is a duty or prohibition with respect to [on] some class of actions, but to introduce a deliberative presumption against certain kinds of action done for certain justifying reasons (certain maxim types). So, for example, when deceitful promises are rejected in the Groundwork, what the CI procedure shows is that reasons of self-interest cannot justify deceitful promises. Agents who justifying reasons are different (they would make a deceitful promise in order to save a life), could be acting on maxims whose generic pattern is different and possibly permissible.

Deliberation that takes account of the more specific action descriptions of the agent’s actual maxim would work (very roughly) in this way. Suppose a generic maxim of killing is rejected. An agent proposes acting on a maxim of killing alpha persons (persons with a distinguishing set of characteristics). The agent then must show that alpha characteristics are such that a prohibition applying to persons per se does not apply to alpha persons. Something about the nature of an alpha person must rebut the deliberative presumption against killing persons. (Alpha persons might be candidates for compassionate euthanasia—the fact of terminal illness, extreme suffering, or a plea for death could be offered as reasons to rebut the presumption against killing persons per se.)

If we are to rebut a deliberative presumption, however, the CI procedure argument that establishes the presumption must have content. That is, we can only argue that alpha persons are exempt from a general prohibition on killing if we know what it is about killing persons that makes it impossible (if it is) to will a generic maxim of killing as a universal law. Thus the requirement that the CI procedure give results in a way that has moral content is not just some desire for a supplementary or psychologically useful extra feature. It is central, as I see it, to the form of moral deliberation the CI procedure seems best able to support.

**A generic maxim of killing involves a contradiction since a rational will cannot universally will the undermining of its capacity to will. Herman 2:**

[Herman, Barbara [Professor of Philosophy at UCLA]. “Murder and Mayhem” in The Practice of Moral Judgment. Harvard University Press, 1993. p.121.]

As I understand it, the CW test asks this: can you guarantee that in all circumstances you can will that others not regard your life as a reason not to kill you, without your will contradicting itself? The argument of the test thus does not turn on the likelihood of others killing me because they all have maxims of killing (or trying to kill) when that is useful. This would be a frightening world, but one in which some “I” could stand fast, if the freedom to kill seemed valuable enough. Instead, the argument moves from the fact of our mutual vulnerability – the weakest in the Hobessian world is able to be the strongest - to a conclusion about what it would be rational to will if our willing altered the principles of other agent’s actions. In the fictional world of the CW test, [If] I will that others not regard my life as a reason to refrain from taking it. Given the Hobessian condition, I cannot guarantee that I will avoid a contradiction in willing. For if I will anything at all, I must will the necessary conditions of continued agency (or I must will, as I can, the omission of what would undermine the conditions of my continued existence). And, given my inability to guarantee avoidance that I will not also have willed the cause of the loss of my life. A maxim of convenience killing would pass the CW test only if the agent could guarantee that the willed universal principle of indifference to life cannot conflict with what else he must will, if he wills at all. No human rational agent can guarantee this. Since I must will, as I can, that others take my existence as a limiting condition on their actions, the maxim of convenience killing is rejected. One cannot will the universalized killing maxim and acknowledge the conditions of human agency.

In rejecting the generic maxim of killing, the contradiction in will argument establishes a moral presumption against killing. Thus, the aff must show that on balance the victim’s use of deadly force is justified as an exception to the deliberative presumption against killing.

I contend that victims’ claims to deadly force do not rebut the presumption against killing. The motives for violence by women are most often coercion, anger, and domination, *not* self-defense or punishment. Strauss:

DOMINANCE AND SYMMETRY IN PARTNER VIOLENCE BY MALE AND FEMALE UNIVERSITY STUDENTS IN 32 NATIONS, 2006, Murray A. Straus.

However, examination of [World Health Organization] references 32 [and 37], 37, and 38 found that although all three ***assert****ed* that women’s violencewas primarily [is] in self defense**,** #32 Saunders (1986) [However,] 32 reported no data on self-defense, #37 DeKesseredy et al (1997) does report data but their data shows that[and in 37] only 6.9% of the women acted in self-defense, and reference #38 Johnson & Ferraro (2000) is a review paper that cites references 32 and 37 and other references which also present no empirical data. At least five other studies that report data on self-defense. Like the DeKesseredy et al. study, four out of the five found that only a small percentages of female violence was in self- defense [Carrado, 1996 #2909; Cascardi, 1995 #230; Felson, 1998 #6675; [Follingstad, 1991 #446; Sarantakos, 1998, 1999 ??; [Sommer, 1996 #3011]. For the one study which found high rates of self-defense, the percentage in self-defense was slightly greater for men (56%) than for women (42%) Harned (2001??). Rather than self-defense, the most usual motivations for violence by women are coercion, anger, and punishing misbehavior by their partner. These motives are parallel to the motivations of male perpetrators. Research on homicides by women shows similar results. For example, Jurik and Gregware (1989) studied 24 female perpetrated homicides and found that 60% had a pervious criminal record, 60% had initiated use of physical force, and only 21% of the homicides were in response to “prior abuse” or “threat of abuse/death.”

[And, domestic violence typically involves mutual violence perpetrated with the intention of domination. Strauss 2:

The study investigated the widely held belief that violence against partners in marital, cohabiting, and dating relationships is almost entirely perpetrated by men, and that when women assault their partners, it has a different etiology than assaults by men. The empiricaldata ontheseissueswereprovidedby 13,601university students whoparticipatedinthe International DatingViolenceStudyin32nations. The resultsin the first part of this paper show that almost a third of the female as well as male students physically assaulted a dating partner in the 12 month study period, and that the mostfrequentpattern wasmutualityinviolence, i.e. bothwereviolent**,** followed by “female-only” violence. Violence by only the male partner was the least frequent pattern according to both male and female participants. Thesecond part of the paper focuses on whether there is gender symmetry in a crucial aspect of the etiology of partner violence -- dominance by one partner, The results show that dominancebyeither the maleor the femalepartnerisassociatedwithanincreasedprobabilityofviolence. These results, in combination with results from many other studies, call into question the assumption that partner violence is primarily a male crime and that, when women are violent, it is self-defense. Because these assumption are crucial elements in almost all partner violence prevention and treatment programs, a fundamental revision is needed to bring these programs into alignment with the empirical data. Prevention and treatment of partner violence could become more effective if the programs recognize that most partner violence is mutual and act on the high rate of perpetration by women and the similar etiology of partner violence by men and women.

**Deadly force for self-interested reasons, however, cannot rebut the presumption against violence because they do deny the contradiction in will argument against killing in general. The claim of self-interest cannot justify discounting the claims of rational agency.**

Frontlines

2NR Overview to Turns

As per Herman 1, any reason presented to rebut the presumption against killing must specifically show that the *content* of that presumption—that a generic maxim of killing involves undermining the necessary conditions of rational agency—does not apply to the case of the victim’s use of deadly force. Reject generic aff arguments about “treating people as ends” because those arguments beg the question—the way we determine whether an action treats one as an end is by consistency with the categorical imperative universality procedure, the contradiction in conception and contradiction in will tests. NC offense comes first. Herman:

Herman, Barbara [Professor of Philosophy at UCLA]. “Murder and Mayhem” in The Practice of Moral Judgment. Harvard University Press, 1993. p.125.

The appearance of a conception of value at the heart of Kantian theory does not imply that we can drop the CI procedure and make moral judgments directly according to some scale of values. Knowing that the autonomous will has value beyond price does not tell us when our actions discount that value. The procedures of judgment for the CI explicate the conception of value that is at the foundation of Kantian moral theory. The role of the CI procedure, through its two tests, is to tell us when our willing is good—when we succeed in acknowledging the true worth of rational agents (ourselves and others) in our maxims. The arguments of the CI procedure at once describe[s] the form of good willing and bring[s] it to bear on the conditions of human agency. Good willing is a matter of deliberative commitment, in which formal procedures of deliberation express the basic value conception. It is not the concept of duty but the ultimate reliance on the CI procedure for judgments of value that makes Kantian ethics “non-teleological.”

A2 Self-Defense

1. If self-defense is justified, it is justified only as a last resort. First, regulative maxims of proportionality and necessity constrain the use of self-defense because the aggressor is still owed respect as a rational agent. Herman writes:

The justification of self-defense does not devalue the aggressor because he is guilty of aggression. He forfeits no moral title; I have no claim of moral superiority. If I may act with violence against aggression, I must do so without ignoring the fact that the object of my action is an aggressing agent. Moreover, the fact of his undiminished agency and value grounds a proportionality of response, not because it is better that there be more agents around but because, in limiting my action where possible, I demonstrate the moral regard he is still owed. It may be possible to defeat ordefuse the threat, or even remove myself from the other’s sphere of action. The justification of a maxim of resistance does not justify every action that would stop the aggressing agent. The action of resistance needs to[It must] be guided by what is necessary to defuse theactual or perceivedthreat, constrained by other regulative maxims and concerns. If violence in self-defense is justifiedas an act of resistance to aggression, it would seem to be justified as an act of last resort**.**

Second, if the defensive measure is not proportional to the threat posed, “self-defense” would merely devolve into unnecessary violence. For example, if you punch me, and I kill you in response, we would deem this as an act of murder rather than a justified act of self-defense.

The victim, in using deadly force, violates this constraint in three ways.

1. Death is inherently disproportionate to non-deadly violence. The topic says that the victim is responding to violence that has occurred in the past, so responses to the threat of possible future deadly violence fall outside the scope of the topic.
2. Force is not necessary because other options are not exhausted. Deadly force is an irreversible harm and does not allow for the possibility of the abuser changing his ways. **Dressler:**[[3]](#footnote-3)

The more we permit early use of force, the greater the risk that the force used was not necessary. But, because deadly force is used -- and the putative aggressor is now dead -- we will never know for sure if the feared attack was going to occur and whether some other, less extreme, remedy would have been sufficient. After all, there is the slight possibility that the batterer will change his behavior if permitted to live. Maybe he will "see the light"; more plausibly, since so many batterers have drinking problems, he will get help to combat his alcoholism; or maybe he will go through counseling or anger management training... We should not entirely give up on the ability of people to change -- that is one reason why some reasonable temporal requirement is in order.

1. Most victims are empirically able to leave the relationship. Schwarz:[[4]](#footnote-4)

Husbands, ex-husbands, boyfriends and ex-boyfriends are believed to be responsible for about half of all murders of women in the United States. However, Jacobson and Gottman found that a surprisingly large number of women actually escape from their abusive husbands. "Battered women do get out, and they get out at a high rate," explains Jacobson, noting that [The] divorce rate over two years ranges from 2 to 5 percent in the general population. In the study, 38 percent of the women married to [abusers without criminal records] Pit Bulls had left and divorced their husbands, while none of the women married to Cobras had left their husbands after two years. But at the end of five years, 75 percent of the women married to [abusers] [with criminal without records] and 25 percent married to [abusers with criminal records] Cobras had divorced.

FL “in response to repeated domestic violence” implies self-defense motive

1. “In response to” just implies that a specific action—repeated domestic violence—set off a response—deadly force, but says nothing about the motive behind that response. The question of what intent motivated the use of deadly force is an empirical question, and we need evidence to resolve that debate.

AT Punishment

1. Punishment is prima facie wrong—additional moral considerations must be warranted to make punishment morally justified. Murphy writes:

[Jeffrie G. Murphy. “Does Kant Have a Theory of Punishment?” Columbia Law Review. Vol. 87, No. 3 (Apr., 1987), pp. 509-532.]

Punishment may not be morally justified at all. Since punishment is by definition coerciveor invasive, it must (by anyone who takes liberty to be an important moral value) be considered prima facie wrong and in need of moral justification. A theory of punishment must bring a systematic moral theory to bearon the questions of criminalization and punishment in order to show how conduct that is clearly wrong when considered in isolation (e.g., locking someone up in a cage for several years) can be morally justified all things considered.

His arguments just beg the question because he doesn’t isolate *why* acting on a punishment maxim makes it such that killing for the sake of punishment would not discount the value of rational agency and thus would not involve a contradiction in willing. Just claiming that it is “punishment” does not get him anywhere.

1. No link to your offense—there’s no empirical evidence that indicates that the motive for victims using deadly force is to punish abusers for their abusive behavior.
2. Punishment cannot be arbitrary, but must be distributed based on desert. Deadly force violates in two ways:
3. The abuser is not granted the right to a trial when deadly force is legitimated but instead is subject to vigilante justice that would vary case-to-case, so the punishment is inconsistent and based on arbitrary factors other than due.
4. No court of law would give a repeat domestic abuser the death penalty. Death is only reserved for the most heinous of crimes.

AT spontaneous violence not willed

1. The resolution, in using the phrase “deliberate response,” excludes instances of spontaneous violence. Victims must intentionally use deadly force, i.e. will the maxim on which they act.

FL generic a2 deontology

FL No Act-Omission Distinction

1. The act/omission distinction is irrelevant when it comes to moral responsibility because intentions and identification with intentions are what matters. If you intend the end and take the means to that end, regardless of what physical set of motions that you cause, you are responsible for that action. What makes a movement become an action is intention.

FL Foreseen But Not Intended Harm Links to NC Standard

1. And, the counterfactual test for intention solves for the violation coming from 3rd party harms because we would still intend an end and take the means to that end without causing the collateral damage or harm. There’s a conceptual difference between intending and foreseeing; when we merely foresee, we aren’t committed to bringing about an end. When we intend, we try to take the means to a certain end.

FL generic a2 categorical imperative

FL Any maxim can be tailored specifically enough to meet the categorical imperative’s universality requirement

1. Herman’s interpretation of the categorical imperative avoids this objection because tailoring of specific maxims is not allowed by the procedure. The standard works by generating deliberative presumptions against GENERIC maxims, and more specific maxims can be defended as *exceptions* to that presumption.

FL Katsafanas – constitutivism 🡪 will to power

FL constitutivism

FL Enoch Schmagency Objection

Extensions

Reath 1

Formal principles generate normativity because they make it possible to engage in moral activity while simultaneously defining moral activity.

CX explanation of Reath 1 and Reath 2: Morality must be a formal principle because only a principle that determines the will through its form has the necessity of a practical law. The formal, constitutive principle of a domain of an activity must govern it with normative necessity because that principle cannot be coherently rejected by anyone engaged in that activity. For instance, if I’m playing chess, I can’t reject the principle that I must checkmate the king, or else I wouldn’t be playing chess at all—so the principle “checkmate the king” governs chess with normative necessity, so to speak. Morality is the same way. If I engage in moral judgment, the categorical imperative is THE governing normative principle. The constitutive principle of passing moral judgments is universality. Judgment seeks agreement with all other judgments as its formal aim; it seeks objective agreement and subjective agreement—objective in the sense that a valid judgment excludes other incompatible judgments, and subjective in the sense that all judging subjects would hold that valid judgment. Thus the formal feature of judgment is that it fit together with all other judgments in a single body of knowledge that holds for all judging subjects. Moral judgments must be capable of being universalized without contradiction.

Generic A2 Consequentialism

Next, aggregation of happiness is impossible because of the inter-subjective conception of the good. Everything that is good or bad is good or bad *for someone;* my good is good for me and yours for you, but the sum of these two values is not good for anyone. The sum of our goods is not a value—the addition of goods or happiness wouldn’t be good for an external 3rd party.

1. Andrews Reath, “Formal Approaches to Kant’s Formula of Humanity,” 2009 (To appear in Sorin Baiasu and Mark Timmons, eds, *Kant on Practical Justification: Interpretive Essays* (Oxford University Press) [↑](#footnote-ref-1)
2. Herman, Barbara [Professor of Philosophy at UCLA]. “Murder and Mayhem” in The Practice of Moral Judgment. Harvard University Press, 1993. p.117. [↑](#footnote-ref-2)
3. Dressler, Joshua, professor of law at the Michael E. Moritz College of Law at the Ohio State University. “BATTERED WOMEN AND SLEEPING ABUSERS: SOME REFLECTIONS.” The Ohio State Journal of Criminal Law, Spring 2006. [↑](#footnote-ref-3)
4. Joel Schwarz. “It’s emotional abuse, not vicious beatings, that often spurs women to leave battering husbands.” February 26, 1998. Social Science. Health and Medicine. [↑](#footnote-ref-4)